REMARKS/ARGUMENTS

This application is under final rejection. Applicant has presented arguments herein below that Applicant believes should render the claims allowable. In the event, however, that the Examiner is not persuaded by Applicant's arguments, Applicant respectfully requests that the Examiner enter the amendment to clarify issues upon appeal.

This Amendment is in response to the Final Office Action dated December 3, 2004. Claims 2, 3, 5, 6, 8, 9, 11, 12, 14, 15, 17, 18 and 23-28 are pending. All claims are rejected. Claim 28 has been amended. No claims have been canceled. Accordingly, claims 2,3, 5, 6, 8, 9, 11, 12, 14, 15, 17, 18 and 23-28 remain pending in the present application.

Claim 28 has been amended to correct a typographical error, so that amended claim 28 depends upon independent claim 25 instead of claim 24.

Claims 26-28 are rejected under 35 U.S.C. 112, second paragraph, as failing to set forth the subject matter which applicant(s) regard as their invention. The Examiner states:

> Evidence that claims 26-28 fail(s) to correspond in scope with that which applicant(s) regard as the invention can be found in the reply filed on 5/28/2003 [sic]. In that paper, applicant has stated as (New claims 26-28 and specification p. 4, lines 21 – p. 5, line 3), and this statement indicates that the invention is different from what is defined in the claim(s) because the specification do not support, rather it is adopted form [sic] the prior art.

Applicant disagrees. Claims 26-28 are specifically supported at specification p. 4, lines 21 through p. 5, line 3. Claims 26, 27, and 28 depend upon independent claims 23, 24, and 25, respectively. Applicant submits that claims 26-28 are patentable when read in combination with their respectively independent claims. In the reply filed on May 24, 2004, Applicant argues, "Resources that do not facilitate the recovery of the data are not used during the restart." Applicant further sets forth an example of such resources in the statement, "Such resources include allowing the failed computer system to accept new work." Immediately following, Applicant cites support

for this example in the specification at p. 4, lines 21 – p. 5, line 3, and indicates that this example is claimed in the newly added claims 26-28. The manner in which the Examiner's applies this support citation to Applicant's arguments is erroneous and is contrary to its plain meaning. Applicant therefore requests that the Examiner's withdraw this rejection.

Claims 2-3, 5-6, 8-9, 11-12, 14-15, 17-18, and 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haderle et al. (6,185,699) and in view of Watts et al. (6,275,832). In the section "Response to Arguments", the Examiner states:

> ...In response to the Applicant's argument, the prior art by Haderle and Watts still teaches all claims its limitations. For information, Haderle teaches restarting the system automatically in response to the failure, or waits for a user command to restart, the recovery mechanism makes an analysis pass through the log form [sic] the last check-point forward (at Fig. 1, col. 5, lines 54-60). Whereas Watts teaches retaining locks to recover the system from failure (at Fig. 3, col. 7, line 65 to col. 8, line 14). The new claims 26-28 are not supported by the specification and claiming the part to over ride the prior art. In the abstract of Haderle et al. (US Patent 6, 185,699) stated as "An amount of restart recovery processing may be postponed until after the DBMS has begun accepting new work requests." It clearly means that the restart recovery processing postponed whenever necessary but not always. So that is an additional feature in comparison to the current invention.

Applicant disagrees. Independent claims 23-25 claim that a restart operation on the failed system is performed to free the retained locks using *only* shared processor resources determined to be necessary for performing the restart operation. Thus, any processor resources not determined to be necessary for performing the restart operation is precluded from use. The simple fact that Haderle and Watts teaches that restart recovery processing is not always postponed, as admitted by the Examiner, means that new work requests can and are sometimes accepted. This is contrary to the ordinary and plain meaning of the limitation recited in claims 23-25 that only shared processor resources determined to be necessary for performing the restart operation is used. Thus, Applicant maintains that Haderle in view of Watts does not teach or suggest restarting the at least one computer system using only shared processor resources

determined to be necessary for performing the restart operation, in combination with the other recited element in independent claims 23, 24, and 25. Haderle in view of Watts further does not teach or suggest that the necessary shared resources do not include enabling the failed system to accept new work, as recited in the combination of dependent claims 26, 27, and 28 and their respective independent claims 23, 24, and 25.

Therefore, for the above identified reasons, the present invention as recited in independent claims 23-25 is neither taught nor suggested by Haderle in view of Watts. Applicant further submits that claims 2-3, 5-6, 8-9, 11-12, 14-15, 17-18, and 26-28 are also allowable because they depend on the above allowable base claims.

In view of the foregoing, Applicant submits that claims 2-3, 5-6, 8-9, 11-12, 14-15, 17-18, and 23-28 are patentable over the cited references. Applicant, therefore, respectfully requests reconsideration and allowance of the claims as now presented.

Applicants' attorney believes this application in condition for allowance. Should any unresolved issues remain, Examiner is invited to call Applicants' attorney at the telephone number indicated below.

Respectfully submitted,
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